



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 23, 1998

Mr. Paul F. Wieneskie
Cribbs & McFarland
1000 West Abram
Arlington, Texas 76094-0060

OR98-2816

Dear Mr. Wieneskie:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119628.

The City of Richland Hills ("Richland Hills"), which you represent, received a request for various categories of information, including records concerning city council members policing of city code violations. You explain:

the city recently began a program where each (city) councilmember drives all the streets in an assigned sector of town, each month, reporting all potential city code violations observed on a form thereafter routed to the code enforcement department.

In correspondence to this office, the requestor states that she seeks "lists that Councilmember Pat Watkins has turned in" showing code violations. You submitted to this office as responsive to the request the council members' reports of code violations. You assert that these reports are protected from disclosure under the informer's privilege aspect of section 552.101, and also sections 552.108 and 552.111 of the Government Code.

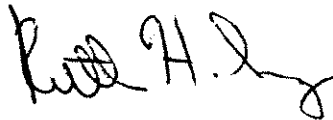
We note initially that the council members' assignment to report code violations was apparently discussed and approved in a public meeting. Thus, it is a matter of public record that city council members, whose names are also a matter of public record, are patrolling through the city's neighborhoods with the specific goal of reporting city code violations for enforcement purposes. We note that the informer's privilege exception is not applicable if the identity of the informer, or informers, is known to the subject of the communication. Open Records Decision No. 202 at 2 (1978).

You state that violations of the city code are criminal offenses. You assert that disclosing these records concerning possible criminal offenses would interfere with the detection, investigation, or prosecution of criminal activity. Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). It is not apparent that release of this information would interfere with law enforcement. We also note that the information provided is basic information about these possible offenses. Section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108.¹

You have asserted that section 552.111 is applicable to these records. Section 552.111 excepts interagency and intraagency communications from disclosure only to the extent that they contain advice, opinion, or recommendation for use in the governmental body's policymaking process. Open Records Decision No. 615 at 5 (1993). However, section 552.111 does not except from disclosure purely factual information. The information provided appears to be factual information which is not protected from disclosure under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119628

Enclosures: Submitted documents

¹Basic information is the type of information that is generally included on the front page of an offense report. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), writ ref'd n.r.e. per curiam, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

cc: Ms. Reta P. Boyle
3032 Dreeben Drive
Fort Worth, Texas 76118
(w/o enclosures)